

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

Yamir Posada,

Plaintiff,

v.

Civ. No. 1:21-cv-00972 MIS/JHR

Kilolo Kijakazi,  
Acting Commissioner of the  
Social Security Administration,

Defendant.

**ORDER ADOPTING PROPOSED FINDINGS & RECOMMENDED DISPOSITION  
AND DENYING PLAINTIFF'S APPLICATION TO PROCEED IN FORMA PAUPERIS**

THIS MATTER comes before the Court on the Magistrate Judge's Proposed Findings and Recommended Disposition ("PFRD"), recommending denial of Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs ("Application"). ECF Nos. 2, 4. Neither party filed objections within the applicable fourteen-day period.

The Magistrate Judge's recommendation, issued pursuant to 28 U.S.C. § 636(b), carries no presumptive weight. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The district court "may accept, reject, or modify, in whole or in part, the findings or recommendations" made therein. 28 U.S.C. § 636(b)(1). In the event of timely written objections by any party, the Court is required to conduct a de novo review. *Id.*; *In re Griego*, 64 F.3d 580, 584 (10th Cir. 1995). However, "[i]n the absence of a timely objection, the district court may review a magistrate's report under any standard it deems appropriate." *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991) (citing *Thomas v. Arn*, 474 U.S. 140, 150 (1985)).

Upon careful review of the PFRD and of Plaintiff's Application, the undersigned agrees with the Magistrate Judge's recommendation. Based on Plaintiff's monthly income, which exceeds her monthly expenses by \$431.00, it appears that Plaintiff is capable of paying the \$402.00 filing fee. See, e.g., *Brewer v. City of Overland Park Police Dep't*, 24 F. App'x 977, 979 (10th Cir. 2002). The Court therefore **ADOPTS** the Magistrate Judge's Proposed Findings and Recommended Disposition<sup>1</sup> (ECF No. 4) and **DENIES** Plaintiff's Application to proceed in forma pauperis (ECF No. 2).

**IT IS SO ORDERED.**

A handwritten signature in black ink that reads "Margaret Strickland". The signature is written in a cursive, flowing style. Below the signature is a solid horizontal line.

**MARGARET STRICKLAND**  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> For the sake of completeness, the undersigned notes one apparent factual discrepancy in the Magistrate Judge's findings. Although the Magistrate Judge stated that Plaintiff "does not owe on either vehicle [her Chevy Avalanche or her Jeep Rubicon]," Plaintiff's Application records a \$600.00 monthly installment payment on one or more motor vehicles. ECF No. 2 at 4. To the extent it is relevant to the Court's determination, the undersigned declines to adopt this particular factual finding and proceeds under the assumption that Plaintiff owes money on one or more of her vehicles.